

MAINE SUPREME JUDICIAL COURT

Reporter of Decisions

Decision: 2008 ME 144

Docket: And-08-431

Submitted

On Briefs: September 15, 2008

Decided: September 16, 2008

Panel: SAUFLEY, C.J., and CLIFFORD, ALEXANDER, LEVY, SILVER, MEAD, and GORMAN, JJ.

IN RE OLIVIA C.

PER CURIAM

[¶1] The father of Olivia C. appeals from the judgment of the District Court (Lewiston, *Beliveau, J.*) that found jeopardy, as to him, unproved but allowed the Department of Health and Human Services to retain custody of Olivia C., despite its failure to prove jeopardy as to the father pursuant to 22 M.R.S. § 4035 (2007). The State concedes that upon the court's finding that the State had failed to prove jeopardy, the State lacked authority to retain custody of the child as against the father. The State's view of the law is correct. Accordingly, we must vacate the District Court's order and remand for appropriate proceedings to consider the father's request that he be awarded custody of the child.

The entry is:

Judgment vacated. Remanded for further proceedings consistent with this opinion.

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